1919
(Courts)

Memo No. 2440 of 19
Sl no - 1 - 2.

Memorial of Ranga accused
in Bangalore Sessions Court No. 15 of 18-19.

G. R. S. III—1] 1920.

(5211

GENERAL AND REVENUE SECRETARIAT.

(Comb)

NOTES.

File No. 244-19

FILE HEADING.

... of Ranga accused in Bangalore Sessions Case No 15 of 19

From

The Inspector General of Prisons

No. 3 - Cr. Dated 6 & 7 April 1920 Received on 22-4-1920

Diary No. 917	Enclos. 2 Spare Copies. Nil	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards a memorial addressed to His Highness the Maharaja by Ranga accused in Bangalore Sess. Case No 15 of 19 praying for mercy.

NOTES AND ORDERS.

1) Submitted for orders. (The records in the case are joined with the file dealing with the memorial of Venkata, 2nd accused in the same case, worked up & submitted separately.

22/4/1920

22/4

NOTES—First Sheet.

2 (2)

G. R. S. III-2]

General and Revenue Secretariat. | Ch File No. 244 of 1919.

Serial No.

2) The petrs in this case & the petrs in Cts: File 237/19 were both charged, tried & convicted for the murder of one Narasachandrappa, a resident of Holerahally in Doddaballapur Taluq, in Bangalore Sessions Case no: 15 of 18-19 and were sentenced to death under s. 302 of the I.P.C.

3) Both the petrs preferred appeals to the High Court in Crim. nos: 32 & 33 of 19-20 respectively, and both the appeals were dismissed the sentences of death being confirmed on both the appellants.

4) Both of them have now sent up memorials for mercy on the usual plea of innocence.

5) It has been established by the evidence on record that the deceased Narasachappa, who was an inoffensive old man, was most brutally murdered. The corpse was found in a deep pit - 8½ feet deep by 6 feet wide - about 2 or 3 furlongs from Holerahalli, and it bore unmistakable marks of severe injuries.

6) The following are the distinguishing features of the case which seem to deserve consideration: —

(1) The circumstances of the case strongly indicate that the death of the

NOTE—Contn. sheet.

Serial No.

old man could not possibly have been due to mere accident & that it was the result in all probability of brutal violence. It is worthy of note that medical opinion is decisive that death was due to the injuries noticed on the body.

(2) The absence of blood marks on the halla where the body was found tends to show that the murder must have been committed elsewhere.

(3) The fact that most of the jewels worn by the deceased while alive were found intact on his body & that the clothes and a 'muravoo' in one case were the only things that were missing shows that the undetected murder could not have been the result of a casual robbery by a wayside thief.

(4) It is. Ranga, the 1st accused, who stood to gain by the murder of the old man.

(5) It is proved that the 1st accused dug up the cash, jewels, &c very shortly after the murder and concealed them in other places, where they were found by him to the police.

(6) It was the 1st accused who produced out the mangled & mutilated corpse

NOTE—Contn. sheet.

Serial No.

to the probe.

(7) The clothes of the deceased proved to have been worn by him before his death came from the custody of the 2nd accused Venkata two of them viz:, Panchi & Dupatti (Articles 3 & 4) being stained with mammalian blood.

(8) The strong evidence of eye witnesses to the murder (P.W. 2, 3 & 4) seems to establish the guilt of both the petrs beyond any reasonable doubt.

7) As regards the 2nd accd Venkata both the Judges agreed that he was guilty and confirmed his conviction & sentence and dismissed his appeal. He also admits in his present memorial that the clothes of the deceased were in his custody.

8) As regards the 1st accd Ranga there was divided opinion. Mr. Justice Devadoss Iyer acquitted the 1st accd whereas Mr. Justice Chandrasekhara Iyer upheld the conviction & sentence of the 1st accd also. Hence the case was laid before the Chief Judge under S. 378 of the Cr: P. code. Sir Leslie Miller, while agreeing in his conclusions with Mr. Justice Chandrasekhara

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

Ch File No. 24 of 1914.

Serial No.

Syed, says that he has given his best attention to the arguments urged in favour of the 1st accd. & that after carefully studying the opinions of the other judges, he is convinced that the Sessions Judge was right in convicting the 1st accd & confirms the conviction and sentence of death passed on him.

9) In the result, the conviction & sentence of death on the accused has been confirmed, and the judges seem to have given very good grounds to support their conclusions. The accused persons have been found to be guilty of a most cold-blooded and brutal murder of a revolting character. The precautions taken to obviate blood stains & to obliterate possible traces of identity unmistakably point to premeditation on the part of the accused. There are no extenuating circumstances in favour of any of the accused & no grounds seem to exist for mercy.

10) Submit for orders

D. M. 6/8/20

Chief Secy

III Member 11) In view of the judgment of Mr Justice Doraswamiyer, it may perhaps be

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

File No. 244 of 1919.

Serial No:

Council case (cumulative).

6368
11.5.20

DEWAN'S OFFICE.
Recd. on MAY 14 1920
Reg. No. 7677

desirable to commute the sentence on the memorialist to transportation for life. The memorial of Venkata may be rejected

3rd member
Dewan

CSJ
10/5/20

P. M.
10/5

2) Both the learned Judges and Mr Justice Chandrasekara Iyer held that the 1st accused is guilty and that he was the man who caused the murder and probably the deceased Warna Kumara his motive being to get into the property of the deceased. He was indeed the arch conspirator in the case, the 2nd accused being only a hired assassin as also M.K. Siddha the approver in the case. There was no reason whatever for the 2nd accused and the approver to take part in the murder of the deceased except at the instigation of the 1st accused. I am not able to reconcile the decision of Mr Justice Dias Bandaranaike Iyer acquitting the 1st accused with his decision convicting the 2nd accused the facts are so interwoven with each other and the evidence is so closely concatenated that it is not possible

NOTE—Contn. sheet.

Serial No.

to acquit him me and convict him the
As shown by the two learned pros — the
Crown pros (Mr Leslie Miller) + Mr Justice
Chandrasekera Liyanarachchi — his guilt of the accused
has been fully established by the Evidence
in hand. Besides his compassionate
statements of the accused, there is his
Evidence of his approver and his wife
and sister of the accused which clearly
shows notwithstanding certain defects
in the remaining of these shows that the
deceased was murdered
by the accused while he was asleep
and that his dead body was taken away and
thrown in a kaha in a field some
distance from his village where he
lived. There is no extenuating cir-
cumstance whatever in this case the
deceased was reputed to a man
of some property and living comfortably
had brought the 1st accused his husband
& his sister two daughters Deena and
Siri with him. It was his fear that his
deceased (wife) would discipline his property
that induced him the 1st accused
Compass his death & his perfection and
he enlisted for his purpose his servant

NOTE—Contn. sheet.

Serial No.

7677.

2nd accused and his appeals. He was present at his house 2nd [redacted] perpetration 2nd deed and he cannot be regarded under the circumstances as his principal friends in this case. I am not inclined to recommend any mercy being shown to him and his application may be rejected so also that 2nd accused.

12/5/20

D. M. 12/5

13) I agree

15.5.20.

14) Mass file up to D.H.C.

D. M. 17/5

15) Resubd. The file has been circulated to the first and the second Members of Council, before ADJN is put up; Please see orders on the margin of page 5.

Adm 17/5

16) subd for orders

II Member
I Member

D. M. 20/5.

17) As regards the 2nd accused there is no difference of opinion & no such no remarks are called for.

7137-84
20-5-1920.

NOTE—Contn. sheet.

Serial No.

Post. With respect to the first accused there is difference of opinion, the Ch. Judge & the Senior Puisne Judge holding the guilt as proved against him & the Junior Puisne Judge holding that it is otherwise. This is a case in which the extreme penalty has been adopted in view of the diabolical circumstances under which the Murder was committed. I believe that if there is divergence of opinion in such cases, the death sentence is not given effect. Generally It appears to me therefore that the requirements of the case will be met if the 1st accused's sentence is commuted into one of transportation for life.

Peel
22.5.20

233/28/5.

3414/18

This is a heinous case. The 1st accused was convicted by the Senior Judge. Two judges of the Chief Court have held that conviction.

As regards the 2nd accused the junior judge convicted him. I agree with the said view that the case cannot be said to be free from doubt as against the 2nd accused. The 2nd accused is also guilty of inducing the principal to commit the offence with a corrupt motive.

Very little importance to the dispute of opinion between the Judges will be attached. I do not think that such difference will affect the 1st accused's case.

NOTE—Contn. sheet.

31.5.

G. R. S. III-2)

General and Revenue Secretariat.

Ch File No. 244 of 1919.

1924/10

Serial No.

19) Please put up D.F.N. as above
D.M.
1/6.

20) Subd. with a DFN as desired.

KR
4/6/1920
4/6

21) Please put up as typed DFN as revised to-morrow.
D.M.
2/6

R2 7/6.

22) Typed DFN is put up as ordered

KR
8/6/1920
8/6

23) Subd with D.F.N.
D.M.
10/6

III Member DFN revised & signed
24)
KR
1/6

25) Subd with as D.F.N.
D.M.
12/6

Chief sec
Dewan.
26) chy
. 13/6
. D.M.
13/6

6955
10.6.20

DEWAN'S OFFICE.
Recd. on JUN 18 1920
Reg. No. 8266

NOTE—Contn. sheet.

A77

11

Final Note by the Third Member of Council.

Subject:-

Memorials of Ranga and Venkata 1st and 2nd accused in Bangalore Sessions Case No. 15 of 1918-19 for mercy against the sentence of death passed on them.

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27) The memorialists were convicted and sentenced to death by the Sessions Judge, Bangalore Division, in Sessions Case No. 15 of 1918-19 on the file of his court. An appeal (Criminal Appeal No.32 of 1919-20) was preferred to the Chief Court and was heard by a Bench consisting of Mr.Justice Chandrasekhara Iyer and Mr.Justice Doraswami Iyer. The former upheld the conviction and sentence of both the accused whilst the latter was for the acquittal of the 1st accused whilst confirming the sentence passed upon the 2nd accused. The case was then referred to the Chief Judge under section 378 of the Criminal Procedure Code. He agreed with Mr. Justice Chandrasekhara Iyer and confirmed the sentence passed upon the 1st accused. Both the 1st and the 2nd accused have now appealed for mercy.

28) 2. There is no question about the guilt of the 2nd accused and the sentence passed upon him is well deserved.

29) 3. As regards the 1st accused I recorded the following minute:-

" Both the Chief Judge and Mr.Justice Chandrasekhara Iyer hold that the 1st accused is guilty and that it was he that brought about the murder of his protector - the deceased Narasa Hanuma - his motive being to get into the property of the deceased. He was indeed the arch conspirator in the case, the 2nd accused being only a hired assassin as also Molle Sidda, the approver in the case. There was no reason on the part of the 2nd accused and the approver to take part in the murder of the deceased except at the instigation of the

1st accused. I am not able to reconcile the decision of Mr. Justice Doraswami Iyer acquitting the 1st accused with his decision convicting the 2nd accused. The facts are so interwoven with each other and the evidence is so closely concatenated that it is not possible to acquit the one and convict the other. As shown by the two learned Judges - the Chief Judge (Sir Leslie Miller) and Mr. Justice Chandrasekhara Iyer -, the guilt of the accused has been fully established by the evidence on record. Besides the confessional statements of the accused, there is the evidence of the approver and the wife and sister of the accused which clearly shows, not-with-standing certain defects in the narration of their stories, that the deceased was murdered in his house whilst he was asleep and that his dead body was taken away and thrown in a halla in a field some distance from the village where he lived. There is no extenuating circumstance whatever in this case. The deceased was reputed to be a man of some property and being childless had brought the 1st accused, the husband of his foster son's daughter, to come and live with him. It was the fear that the deceased (an old man) would dissipate the property that induced the 1st accused to compass the death of his protector and he enlisted for the purpose the services of the 2nd accused and the approver. He was present at the time of the actual perpetration of the deed and he cannot, but be regarded under the circumstances as the principal offender in the case. I am not therefore prepared to recommend any mercy being shown to him and his application therefore may be rejected as also that of the 2nd accused."

30/4. The Second Member of Council is of opinion that on account of the difference of opinion between the Judges of the Chief Court, the sentence of death passed upon the 1st accused may be commuted into one for transportation for life. The Dewan and the First Member, however, are of a different opinion and the First Member has recorded the following minute:-

13

"This is a particularly bad case. The 1st accused was convicted by the Sessions Judge. Two Judges of the Chief Court have upheld that conviction.

3a) As regards the 2nd accused the junior Judge convicted him. I agree with the Third Member that the case cannot be split up like this and if the 2nd accused is guilty, the 1st is also guilty - in fact doubly so, being the principal offender acting with a sordid motive. So I attach very little importance to the difference of opinion pointed out by the Second Member and therefore do not think that such difference entitles the 1st accused to any act of clemency."

3b) The papers are submitted for the gracious orders of His Highness. The applications may be rejected.

Mir Humza Hosein
MEMBER OF COUNCIL.

12th June 1920.

(14

Submitted to His Highness.

32) *I submit herewith a Final Note by the*.....Third.....

Member of Council on the subject of....memorials..of...

Ranga..and..Venkata,...first..and..second..accused..in..Bangalore Sessions Case No. 15 of 1918-19, praying for mercy against the sentence of death passed on them;.....

for His Highness' gracious approval.

M E Couchman

Dewan.

19th June 1920

(15

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Memorials of Ranga and Venkata praying for mercy against the sentence of death passed on them.

Order.

33) ~~KRM~~
24/6/20

34)

35) 25.6.20
Draft please

25/6/20

25/6

G. R. S. III-2]

General and Revenue Secretariat.

Ch File No. 144 of 1919

B24

B24 2671(16)

DEWAN'S OFFICE.
Recd on JUL 14 1920
Reg. No. 378

Serial No.

36) Subd with 3 drafts as ordered above

26/6/20 37) Subd with draft for kind signature of the Dewan.

D.M. 16/7

Chief Secy

Dewan

38) Chy 13/7

D.M. 13/7

39) Subd in duplicate

Secy

16.7.20

41) Issue

Chy 16/7

D.M. 16/7

Chy 19/7/20

This was handed immediately in the Branch.

Approved. The case was sent for Issue from 26/6/20 to 20/7/20 - the words do seem to deal with urgent & immediate cases hereafter must be sent with the relative papers.

2 To The Registrar, Chief Court.

No. G. 1156 Dy 16th July 1920.

Conveys the order of His Highness rejecting the memorials of Venkata & Ranga accused praying for mercy.

The copy of the judgment & the original memorial returned herewith by the Chief Court along with letter no. 63/Cr. 17-7-20, are kept in the file

20/7/20

NOTE—Contn. sheet.

OFFICE OF THE SECRETARIAT
III
PROTECTION BRANCH.
12 NOV 1920

B 11/11

No. 1012 Enc. 2.
Cr

Ch Roll 6th
20 1920

28440

Bangalore,

Dated 16th April 1920.

From

THE REGISTRAR OF THE

CHIEF COURT OF MYSORE.

To

THE CHIEF SECRETARY TO GOVERNMENT,

GENERAL AND REVENUE DEPARTMENTS, BANGALORE.

Sir,

In continuation of this office No: 997/Cr.R. dated 1/14 April 1920,

I am directed to forward a memorial addressed to His Highness the Maharaja by Ranga 1st accused in Bangalore Sessions Case No. 15 of 1918-19 on the file of the Sessions Judge of Bangalore Division and appellant in Criminal Appeal No. 32 of 1919-20 on the file of this Court.

Criminal Referred Case No: 2

The entire record of the case has already been herewith forwarded.

I have the honor to be,

Sir,

Your most obedient servant,

M Srinivasaiyangar

For Registrar.

GPB—1,000—16-8-12

SG.

Tr. 841.

1/11.4.20

19.20

Chief Jailor.
Dist. Jail.

16/4/20.

2 L

The facts of the case are fully stated in the judgment of the lower court and it is unnecessary to repeat them. It is sufficient to state that for over a year before the date of the alleged murder, the appellant Ranga with his wife and sister, was living with the deceased as a member of the latter's household in the village of Molerahalli. The deceased had no male issue, and it is in evidence that he either took in adoption or had fostered his brother's son Hanumayya. A daughter of the said Hanumayya was ~~xxx~~ got married to the appellant Ranga. It is stated that about a year or two before his death, the deceased Narasa Hanuma lost his wife and sisters, and being left alone sent for Ranga and his wife to live with him. Ranga had himself a widowed sister to be looked after and she was also taken to live with him in the deceased Narasa Hanuma's house. Just about the same time the above-named Hanumayya was also sent for by the deceased and it would appear that ~~H~~anumayya left with his young son some three months prior to the death of Narasa Hanuma. The recorded evidence does not throw any light as to his whereabouts.

Thus at the time of the alleged murder the inmates of Narasa Hanuma's house were Ranga, Ranga's wife Narasamma (prosecution 4th witness), Ranga's sister Lakkamma (prosecution 3rd witness), and her infant son about three years old. So far the facts are undisputed. It is also undisputed that the corpse of Narasa Hanuma was found in a deep pit - 6½ feet deep by 10 or 15 feet wide - situated about 2 or 3 furlongs from the village of Molerahalli and about 45 feet off the foot-path running between Molerahalli and Kumur. The appellant Ranga is stated to have first discovered the dead body in the pit about 6 P.M. on Friday, the 21st March 1919, and furnished information to the Patel at Kumur. This fact is referred to in Exhibit P$_4$ which is the report sent

Sessions Judge is of the opinion that the throat of the deceased was cut with the knife, article No. 1, on which mammalian blood was detected by the Chemical Examiner, vide exhibit P_3, the Chemical Examiner's certificate. In the committing magistrate's court the medical witness was not even asked whether the incised wound on the neck could have been caused by the knife, article No. 1, which was at the time of his examination before the court. Indeed he was not even shewn the knife. Nothing more was elicited from the witness than the vague and indefinite statement that 'death was due to injuries by sharp and blunt instruments'. The accused were undefended in the court of the committing magistrate and naturally there was no cross examination. It is to be observed that in the certificate, exhibit P_3, the opinion as originally recorded by the Sub Assistant Surgeon was in accordance with his deposition given in court. It ran thus:-

> "I am of opinion that death was due to the effects of bleeding from the injuries noted which should have been caused by both blunt and sharp instruments."

The District Medical Officer, Mr. L.S. Puttanna, L.A., M.B.C.S. who countersigned the certificate scored off all except the words "death was due to the injuries noted," probably the reason that from the post mortem appearances indicated in the certificate he was unable to wholly endorse the opinion of the Sub Assistant Surgeon as to the cause of death. The Sub Assistant Surgeon nevertheless stuck to his own theory when he was examined as a witness. Besides the cut wound on the neck it was noticed that the lobe of the right ear was cut, the sockets of both the eyes were broken at their outer sides, the shoulder blade and several ribs broken but yet the medical witness was not questioned as to whether all or any of these injuries could have been caused, if the murder had taken place,

in the manner alleged by the prosecution. The head quarters of the Sub Assistant Surgeon is at Lodhallapur, within easy reach of Bangalore. No grave inconvenience could have been caused by his absence from Lodhallapur for a day and more is alleged. Indeed he came to Bangalore to give evidence before the committing magistrate. In these circumstances the courts below would have better exercised their discretion had they, in accordance with the instructions contained in Circular Letter No. 70, dated 22nd July 1887, issued by this court, secured the attendance of the Sub Assistant Surgeon for examination in the Sessions Court, instead of merely using his vague and imperfect deposition, - untested by cross-examination, - under the provisions of section 509 of the Code of Criminal Procedure. In this case the evidence of the senior medical officer who has countersigned the certificate would have been of special value seeing that he found himself unable to agree with the Sub Assistant Surgeon on a vital portion of the cause of death. The medical evidence meagre as it is in regard to the existence of the cut wound on the neck is singularly lacking in detail. The trachea and the blood vessels of the neck are stated to have been cut, but it has not been made clear whether by blood vessels the external blood vessels or the large blood vessels such as the carotid artery and its branches and the internal jugular vein are meant. If the latter, then it seems to me that the external heamorrhage would be so rapid and copious as either to stream down the floor or form a pool of blood on the ground copping with blood the body and clothes believed to be worn by the deceased at the time of the murder. It therefore becomes very necessary to examine with care and minuteness the prosecution version and the oral evidence regarding the manner in which the wound on the neck is alleged to have been caused.

I believe that the motive for the alleged murder cannot be robbery, because the few articles of comparatively trifling

(21)

It may be noted that the three assessors with whose aid the case was tried were unanimously of opinion that the accused were not guilty, though the reason assigned, viz., that the first accused would inherit the property of the deceased is not in law correct. Perhaps they meant only to state that after the old man's life time the first accused and his wife would be practically left to enjoy his properties.

The appeals were fully argued on both sides and I have read through the evidence very carefully. I find myself unable to agree with the learned Sessions Judge in respect of most of the grounds on which he has based his conviction of the first accused. The principal witnesses against him are his own sister and wife. Ordinarily they would be most reluctant to say anything which would tell against him and yet they are the persons who give the most damaging evidence against him. The wife of course has a divided duty to perform. On the one side there is her husband who is involved in the murder, and on the other the murdered man is her grandfather. Except for the break of a few years when she was living with her husband in his native village her life was spent in her grandfather's place, and for about a year or so before the old man's death she was practically the mistress of the house. She was freely confided in and was the custodian of his loose cash. The deceased had none else to care for except her and her husband, and they in their turn had none else to look up to except him. His adopted son is an unsettled itinerant wandering about from place to place. Indeed he went away somewhere some three months before the death of the old man. But Lakshmi's position is somewhat different. She is not related to the deceased except through her husband, the first accused. She is naturally more attached to her husband, and on that account will be much more reluctant than Kamakshi to implicate him. Ordinarily therefore the statements of these two women could not have been made voluntarily and of their own

impulses. I feel it imperative, in these circumstances, to scan their evidence with more than ordinary care and attention.

There is one episode in the prosecution story, and in my opinion a very important one, as it has a material bearing on the guilt of the first accused, as well as the appreciation of Lakkamma's evidence. Jamedar Niranappa who received the patel's report, Exhibit P_4, on the 21st March at 12 midnight -- the hour of receipt is noted as 12 midnight on the report itself -- forwarded it to the Inspector at Dodballapur with a special report of his own, Exhibit P_5, dated also the 21st March and timed 12 midnight. In fact both the reports were enclosed in the same cover and sent to the Inspector. The Police Inspector says he received them about 6,45 or 7 A.M. on the 22nd. Dodballapur is about 10 miles from Dodbelavangala. The distance between Dodbelavangala and Holeraballi is less than two miles. Exhibit P_5 is an important document written almost simultaneously with the receipt of Exhibit P_4. It is to this effect :-

"The deceased Narasa Hanuma was worth about Rs. 4,000/-. His wife, children and all his nearest heirs are dead. It is ascertained from the people here that Ranga, the husband of the deceased's foster son's daughter who is referred to in the patel's report and others murdered him (the deceased) on the night of Wednesday, the 19th last being angry that the deceased would alienate his properties, and that to avoid suspicion he (Ranga) pretended to have made a search for the deceased yesterday, the 20th, that it was absolutely false that the deceased died having fallen into a ditch by the side of the path, as stated in the patel's report and that the report was made after much deliberation on the part of the shanbhogue and patel." It is remarkable that the case for the prosecution as put forward in the court has been foreshadowed in every detail in this report, as early

as

as the 21st. The police had therefore a definite theory to start with from the very inception - a theory which was not the result of any process of deduction, but definitely told by the people of Lodbelavangala. It is to be regretted that the learned Sessions Judge has not even taken a passing notice of this aspect of the matter, indeed the author of this report was not even examined as a witness at the trial. It was left to us, as we thought it necessary to have his 'evidence placed on record'. The following appears from his evidence:-

Question: Who are the persons whom you have referred to as "others" in your report Exhibit P_5?

Answer: I do not remember their names now, as it is more than six months since this occurred. Further pressed the witness stated 'I do not know who the others referred to in Exhibit P_5 were. I did not get any information about their names."

Both the answers are not easily reconcilable. Continuing the witness added:-

"I got the information mentioned in Exhibit P_5 after I received the patel's report. I got all the information embodied in Exhibit P_5 within about 10 minutes, in the interval between the receipt of Exhibit P_4 and the despatch of Exhibit P_5. I have not made a report of the information contained in Exhibit P_5 in any diary of mine. I did mention to the inspector orally about the information contained in Exhibit P_5. He asked me who gave the information and I mentioned to him the names of my informants.

30

He did not make any record of it. This was at 11 A.M. or 12 Noon at the time of the inquest on 22-3-1919. The persons who gave me information belong to Belavangala and not Holerahalli. None of them was examined either in the committing magistrate's court or in the Sessions Court. They were 3 or 4 that informed me, and they were all in the chavadi. It was on my beat that they gave me the information * * * * On the 22nd I gave the names of those persons to the police inspector before the inquest. None of my informants was present at the inquest. I did not take those persons before the inspector. The inspector made no attempt to get my informants. I was present at the inquest. At the time of the inquest no information was received in support of the version contained in my special report, Exhibit P_3. * * * The women Lakshmi and Narasamma were not examined at the inquest. I do not know why. It is the inspector that conducted the inquest. I went to the house of the deceased on the 22nd after the inquest was over. I did not then make any enquiries of Lakkamma and Narasamma. They were both present in the house then. * * I did make enquiries on the lines contained in my report, of a Bedar, an agasar, and a kumbar of Holerahalli whose names I do not remember. I did not take my informants to the inspector on any date subsequent to the 22nd March and the inspector did not examine any of those persons in my presence at any time".

This extract speaks for itself. The inspector went to Holerahalli on the 22nd at about 11 A.M. or so and stopped

here.

there till nightfall. At the inquest only the first accused Ranga and the approver were examined. The approver gave no information of any value. Ranga said he did not know how the deceased met with his death. The women in the house were not examined. The ~~informx~~ informants whose names were made known to the inspector, if the jamedar's evidence is true, were not even sent for. Valuable information regarding the murder though forthcoming was not availed of. The verdict at the inquest was that it was not possible to say in what way the deceased met with his death. Even in the first information report sent to the magistrate after the receipt at 5 or 6 P.M. on the 23rd of the post mortem certificate, the accused are noted as unknown. Exhibit P_5 is not even referred to in the first information report. The case diary of the inspector of the 22nd, in which Exhibit P_5 finds mention was sent with the diaries of the 23rd and 24th, and all of them reached the Superintendent only on the 26th. The only inference that I can draw in these circumstances is that the inspector either did not receive Exhibit P_5 till after the first information report was despatched, or that he did not believe a word of what was contained in Exhibit P_5, so much so that he did not ever care to examine the persons on whose information Exhibit P_5 was founded.

The jamedar however would not give up his theory. When left alone between 6 and 9 P.M. on the night of the 22nd, in temporary charge, as it were, of the investigation he pursued his theory and made enquiries, as he states, of a Medar, an Ambar and a Gumbar, all to no purpose. On the 23rd, at about 10 A.M. he met Lakkamma in a tope about 50 yards away from Holeralahalli. There was none with her except the police informant Veerabhadrappa.

In his presence Lakkamma is said to have given information leading to the unearthing of the crime. She was produced before the inspector the same night at Dodballapur. Both the jamedar and the patel (prosecution 8th witness) took her from Holerahalli to Dodballapur. The inspector ~~xxyx~~ states that when he examined her on the 23rd night she gave information about the murder of the deceased by the two accused and the approver. Those three persons were then arrested at 10 P.M. on the 23rd. The other woman Narasamma was examined by the inspector on the 25th at Holerahalli.

Lakkamma, examined as prosecution 3rd witness, stated that on the 19th the first accused, Narasamma and she herself were sleeping in the nadumane and that the deceased Narasa Hanuma was sleeping in the padsala; at about midnight she heard a gurgling noise, awoke from her sleep and went out to the padsala; it was dark and no lamp was burning. She found Narasa Hanuma lying down on a ladder with his throat cut. The two accused and the approver were seated there. Narasi ~~alone~~ also came out with her to see what had happened. The witness asked them why they ~~are~~ were seated there. Then the first accused came and pushed her into the house, i.e. into the nadumane telling her not to meddle in the matter. Similarly Narasamma was also pushed in and the door was bolted from outside. The first accused opened the door only after day break. Apart from the intrinsic improbability of her having been able to see in the dark with no lamp burning, Narasa Hanuma's throat being cut, it appears to me to be quite unlikely that the women, at any rate Narasamma would have allowed herself to be quietly shut in knowing that her grandfather was stretched out on the ladder with

his

his throat cut. This much is clear that according to the evidence above set out, neither of the women could have seen the throat cut or been present at the time of the murder. But later on, in the course of the same deposition she developed her story and stated that she saw the second accused cut the throat of the deceased, though she did not notice with what he cut. In cross-examination she added that the second accused cut the throat with a knife, but later on contradicted herself and stated that she did not see the second accused cutting the throat of the deceased, but that she saw the corpse laid on the ladder she ~~xxxxxxx~~ inferred that the second accused cut the throat, though she did not as a matter of fact see him cut. She added that she saw the knife, article No. 1, for the first time in the committing magistrate's court. I must confess that is extremely difficult for me to place implicit reliance on the testimony of a witness who makes hopelessly contradictory statements thrice in the course of the same deposition. Then again with reference to the ladder her first statement was that when she came out of the madumane, she saw the deceased laid on it. In her cross-examination however she said that the first accused brought the ladder and that the second accused and the approver placed the corpse on it. Both the statements cannot be true. In another part of her deposition ~~xx~~ she stated :-

> "I saw the second accused cut the throat of the deceased. I did not see with what he cut the deceased. The first accused was seated chewing betel leaf and nut. I saw it. He was seated at a distance of 7 feet from where Narasa Hanuma lay. Mollesidda (approver) was seated at a greater distance from my brother."

I am not sure if she meant to say that at the time when the throat was being ~~x~~ cut by the second accused, the approver

and the first accused were seated so far away. If the events were narrated by her in the order of their sequence, she presumably meant to say so. In that case this version is quite opposed to that of the approver, and does in my opinion cut at the very root of a vital part of the prosecution story. If on the other hand the two events were observed by her at different points of time, then she must have seen the first accused and the approver holding the limbs of the deceased when the second accused was engaged in cutting the throat. It is impossible that if she saw one of the three persons in the act of committing the murder, she could have omitted to see the other two; and yet she does not say she saw the other two helping the second accused, when the latter was engaged in the act.

Narasamma was the next witness examined for the prosecution. She admits that when she was awakened by Lakkamma at about midnight she saw the two accused and the approver standing in the padsala and that the dead body of Narasa hanuma was placed on a ladder. She also admits that she and Lakkamma were both pushed in by the first accused and the door was closed against them. She could not, therefore, have been an eyewitness either of the murder or of the transport of the corpse. She stated that she did not see what had happened to the deceased and that only knew that he was dead; but she added that the two accused and the approver carried the corpse and that she saw it. How could that be? She stated first of all that she did not know who cut the throat of the deceased, that she did not see what each accused did or the part that the approver took. Then the public prosecutor read out her deposition given before the committing magistrate and asked her if she did not make a statement to that effect. Then she deposed as follows :-

"I

"I did make a statement before the lower court as mentioned therein. I now say that the second accused cut the throat of the deceased with a knife. It was true that Mollekidda was holding the hands of the deceased. I did say that the first accused was holding the legs of the deceased. The knife, article 1, does not belong xxxxxx to us. I do not know with what knife the deceased was killed. I did tell the magistrate that the accused on being questioned why they murdered the deceased, pushed me and the previous witness(Lakkamma) in the house. What I deposed there is true. I swear that I saw all these events with my own eyes. I am not tutored by any one. When I first made my statement here I forgot (!) what I had stated in the lower court."

Note :- The witness laughs occasionally and does not appear in the least concerned about the first accused being in trouble. After all this cross-examination by the public prosecutor was over, the advocate for the defence commenced his cross-examination and elicited from the witness that she saw that the second accused was seated near the head of the deceased, her husband near his feet and that the approver was holding the hands of the old man sitting to his right, while the second accused was cutting the throat of the deceased with a knife. This gruesome narrative of the events is repulsive enough to hear, but to this young woman the sight was not horrible enough to draw out even a plaintive cry. She cannot even say why she did not cry out or beat her mouth on seeing the old man murdered. Lakkamma said that it was dark in the [illegible] and that no lamp was burning there, but according to Narasamma there was a lamp burning in a niche in the padsala wall. If that was so why did Narasamma say that she removed the cordung from the floor, where [illegible] lay? It was correct that she could not say if the [illegible]

was blood stained. In one breath she says that she did not find any blood on the floor and did not see any blood flowing from the wound in the neck of the deceased and in the next breath she says she removed the blood stained manure from the place. Where did the blood come from and how did the cowdung get soaked in blood? If after the ~~xxxxx~~ women were pushed in the door was bolted from outside, how did Narasamma manage to come out for the purpose of removing the blood stained manure soon after the accused and the approver carried away the deceased. According to Lakkamma the door was not unbolted by the first accused after day break, that is after his return from the place to which the body was taken for disposal. I find it difficult to reconcile the story as told by these two women and their statements have varied so considerably that, I think, it would not be quite safe to rely upon their evidence. Then comes the approver. At the inquest he was examined as a near relative of the accused. His wife is a daughter of the brother of the deceased. He said he was unable to say how the deceased met with his death. At Lodballapur he was arrested with the other two accused at 10 P.M. on the 23rd March. Since then he remained in custody. Like the other two accused, he was also taken to Bangalore to get his confession recorded. The same magistrate that recorded the confessions of the other accused, recorded his confession also on the 28th ~~xxxx~~ Idem. In the Committing magistrate's court, before the examination of the witnesses was taken up, the prosecuting inspector suggested to the court that after tender of pardon to him under section 337 of the Code of Criminal Procedure he may be examined as a witness in the case. The reason assigned was that as the principal witnesses in the case were the sister and wife of the first accused, they might not be expected to be firm, particularly as ~~xxx~~ to the sister was very dull

(37)

unable to give a coherent narrative of what she observed. Pardon was given and the approver was examined as the first witness for the prosecution. His confession, Exhibit P 1, recorded by the Second Class Magistrate of Bandarawela was also put in as corroborative evidence under section 157 of the Indian Evidence Act. According to the decision of the majority of the Judges of the Madras High Court in the Ashe murder, Letters Patent Appeal, the previous statement of an accomplice is legally admissible and may amount to corroboration of the evidence given by him at the trial, but the weight to be attached to it will vary with the facts of each case.

In the course of his examination-in-chief in the Sessions Court the approver stated as follows:-

"First accused came and woke me up. I asked Banda what he wanted of me. He asked me to go with him for a talk (!) I then went with him to the house of Narasa Lekuna. The second accused had come there by the time I went with the first accused. The deceased was asleep in the Padsala. The second accused asked me to hold the legs of the deceased - I asked him why he spoke thus. He then asked me to hold the legs as he wanted to cut his throat - The first accused also asked me to hold the legs of the deceased. I did as directed and requested the accused 1 and 2 not to meddle with me and that I would do whatever they asked me to do."

Whatever may be the truth, the story as narrated by the is too absurd to be believed. There is in the first place no suggestion whatever of any previous concert in the matter, on the other hand the circumstances negatives it. What is the obligation he was under so as to timely submit to the dictation of the other two accused and join readily, without a word of protest, in a horrible crime. There was no grave

(39)

corroborate the other.

Similarly on the theory of conspiracy no consistent account is given. In cross-examination at the trial the approver makes out that about 30 days before the murder he met the first and second accused talking together in the kana of the deceased and ascertained from them, that the second accused was in need of Rs. 100/- for his marriage expenses and on the first accused suggesting that the amount may be borrowed from the deceased, the second accused declined to do so, and offered to kill him and that this proposal met with a ready response from the first accused. The approver detested the idea and advised them to forget the conversation at once as it was most improper to think of killing the old man. Apart from the fact that this theory is opposed to the suggestion contained in the prior confession, Exhibit P_1, and in the examination-in-chief, of there being no previous talk of the murder, the story as told above appears to me incredible on the face of it. And if the part that the approver is stated to have taken on this occasion is true, it is hardly likely that he would have so readily consented or allowed himself to be so easily coerced into obedience, on the night of the murder particularly when he was called in to see the old relation of his who was stated to be far from well and talking incoherently. It may be noted that in the retracted confessions of the two accused, there is no suggestion of any conspiracy or preconcert before the date of the murder.

Then again the approver states that when he held the legs and the second accused cut the throat of the deceased, Lakkamma was present and not Narasamma, but that is not what the women say.

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For all these reasons I am unable to accept the approver's testimony as reliable. I am of course aware of the natural tendency of all approvers to make others more responsible than themselves, but it must also be remembered that the approver is giving his evidence on a conditional pardon and that naturally there will be an inducement ~~to~~ in him to earn it. But the story as told by him is intrinsically improbable, and is not corroborated in material particulars by any independent testimony worthy of credit. Indeed as I have shewn it is materially contradicted.

We are thus left to fall back on the confessions of the accused. Both have retracted their confessions in the committing magistrate's court and at the trial and the second accused puts forward a totally different story about the murder. The first accused as we have seen was the principal man examined at the inquest. His confession is thus opposed to his first statement and his subsequent statements. The Sessions Judge himself is not disposed to attach much weight to these confessions for their own sake, and he only takes them into consideration for the reason that in his opinion they are corroborated in material particulars by Lakshmma, Narasamma and the approver. Taking the confession of the first accused first:- The apparent motive suggested is that Narasa-Narsma showed preference to his brother-in-law Venkatappa living at Kottigehosahalli and was enriching him, as the first accused thought, at his expense. He expostulated with the old man but was met with a rebuff. He was therefore enraged at the conduct of the old man and made up his mind to murder him. He hired the second accused and the approver to assist him promising to pay a hundred rupees each and carried out his intention.

The first accused is a man of Penrawalli and was apparently of independent means, as he was living there with his wife and sister until he was sent for. He did not voluntarily go to Holerahalli to take his abode with the old man. There was nothing in the conduct of the old man or the first accused to suggest any possible feeling of estrangement towards each other. Naturally the old man will not in these circumstances do anything which is likely to prejudice the material interests of the first accused. It is not shewn that there was any reason for the old man to change his affection for his grand-daughter, or to bestow favours on his brother-in-law at the expense of those near and dear to him. If this story was true, the prosecution could easily have elicited corroborative proof from Venkatappa; they have failed to do so. One important link of the prosecution story contained in the confession of the first accused - a link that furnishes motive for the crime so far as the first accused is concerned stands thus uncorroborated. The motive suggested in the deposition of Ramsamma and the police inspector is that the first accused was in too great a hurry to possess himself of the cash and jewels kept buried underground by the deceased and therefore committed his murder. It is sufficient at this stage to state that there is nothing in the confession of the first accused to lend support to it. Lower down in the same confession it is to be found that the first accused prayed that the jewels worth Rs. 400 or Rs. 500 brought from the house by the police may be restored to him. This statement does not strike me as coming voluntarily from one who out of contrition made a confession of his crime aware of what the consequences of such a confession on him would be.

With

With reference to the confession of the second accused in so far as it has to be taken into consideration in regard to the guilt of the first accused, it is worthy of note that he tries to minimise the part he took. He states:-

"Malliga (meaning the approver) caught hold of Narasa Hanuma's legs. I first caught hold of his hands, and Rangiah placed his legs on the chest and cut the throat holding it by the head. He cut it with a knife."

The first accused and the approver make out that it was the second accused that cut the throat. In the committing magistrate's court, after all the witnesses for the prosecution had been examined and with the full knowledge that the approver had implicated all the three persons, he has absolved the first accused altogether. In his appeal memo presented to this court through the jail authorities - he reiterates that the first accused is innocent and had no hand whatever in the murder. In the lower courts he was awaiting his trial and it is perhaps more likely that he would there tell a false story, but now that he is tried and sentenced to death and knows his own fate why should he strive to save not only the first accused, but the very ~~xxxx~~ man, I mean the approver, who gave evidence in two courts against him. I am free to confess that it has made some impression on me in favour of the possible innocence of the first accused.

In the view I have taken, namely, that the deceased could not have done any act to the material prejudice of the first accused and his wife it is not easy to account for the unnatural haste which he is stated to have exhibited in getting into the possession of the cash and jewels belonging to the deceased. Assuming that suddenly he developed the avaricious intention to get at the buried money and jewels could he not have achieved his object without going the length of murdering the old man? One does not ordinarily think of

having recourse to murder, if by other means his object xm can be achieved. It may be that we are unable to dive deep into all the springs of human action. But it seems to me that when it is so easy to remove from the place or places of burial, during the absence of the deceased from the house with less risk of being detected, it is against human nature especially for one bearing no grudge against the deceased, to murder him. Assuming again that for some unaccountable reason the first accused had resolved upon murdering the deceased, would he do it himself and in his house when he could more easily have got it done by the hired assassins elsewhere. It is in evidence that the old man was going out to shandies and returning after night fall. It is easy to waylay and murder him on such occasions at a lonely spot with considerably less risk: By selecting the house for committing the murder there is the further risk of being found out and surprised in the act by the two women in the house. The natural instinct or impulse of a woman on seeing a horrid crime committed before her eyes, especially when the victim happens to be one dear to her, will be to scream out and to raise a hue and cry. In the case of Narasamma it will be more so than in the case of Lakkamma. It is difficult for me to believe that ~~he~~ the women also were privy to the murder. Lastly there is the risk of attracting the attention of the neighbours at the time of the murder and of the passers by during the transport of the corpse from the house to the hills.

Next if the murder took place in the house and in the manner described, there should be a pool of blood in the room and the clothes and bedding of the deceased would be saturated with blood. On the clothes of the murderers also, particularly the first and second accused who are stated to have been sitting near the injured throat, blood would have spurted out.

The

The story that all the blood on the floor was removed ~~was removed~~ in the dark by the use of cowdung manure, or that such a large quantity could be so removed does not appear to me to be easy of acceptance. It is not easy to obliterate all the traces of blood by the means said to have been adopted. It is said that the cowdung thus soaked in blood was thrown into the manure heap in the kithal. The police were unable to find any blood stained manure in the thippe. It is not stated that any manure was removed from the thippe in the interval. The absence of large patches of blood on the bedding and clothing of the deceased is sought to be accounted for, by their removal before hand. Though on this point there is variation ~~xxxx~~ between the evidence of the women and that of the approver, it appears to me to be unlikely that the old man, even if he had smoked ganja, could have been so far insensible as to allow all his clothes being removed, his hands and legs held fast and one person to be mounted on his chest before the knife was applied to the neck, without any cry or struggle. There is no evidence that any of the clothes of the accused or the approver worn at the time of the murder was found blood stained. In the face of so many improbable circumstances I find it difficult to believe that the murder could have been committed in the house of Narasa Nanuni.

The Sessions Judge says that there is ample evidence that the first accused made a show of search and discovery on Friday following the date of the murder. As far as I have been able to see there are only two places in which reference is made to this aspect. One is Exhibit P 5 of which I have already taken sufficient notice. The second is the confession of the second accused. The second accused does not say that he accompanied the first accused in his searches. Moreover it

it appears to me that if the first accused had a hand in the murder and the disposal of the corpse in the halla he would not have been in a hurry to discover the body himself. He would naturally to ward off suspicion attaching to his conduct, pretend to search in places other than the one where the body was deposited. He would not be in a hurry to communicate the fact of his discovery to the patel or get him to send a report.

About the discovery of the clothes in consequence of information furnished by Lakkamma we have to depend on the testimony of Jemadar Veerappa assisted at that time by the patel and Veerabhadrappa. The patel was suspected to be screening the first accused in the Jemadar's report, Exhibit P. The halla in which the corpse was found is on the land Survey No. 23, belonging to the patel. The patel would, in such circumstances, be not unwilling to help the jemadar in the pursuit of a theory conducive to the removal of suspicion attaching to his own conduct. Veerabhadrayya was the police informant. There is the further fact that according to the evidence of Lakkamma given in the Sessions Court, she could not have observed the second accused taking the clothes of the deceased. Her statement that she saw is inconsistent with her own testimony. The second accused in his confession Exhibit P 1, says that he handed over the concealed articles (the knife, turban, bathing cloth and panchy) to the Amildar and Inspector. He states thus :-

"Hanga then went to the pitch saw there and then informed the Covda. Then the Amildar, Inspector and others came and asked me, 'Why Thimma, how did this happen?' Then I told them how it occurred and I gave up all that I had kept concealed'.

In the second accused's statement given before the committing magistrate he says that he gave Hanga Hanuma's clothes to the police inspector." In the Sessions Court, however,

he states that his father produced articles 4 and 10, but in the same breath adds that his father was an ignorant person and that the patel Veerabhadrappa and the police had tutored his father and made him say so. What this means has not been made clear. In the appeal memo presented to this court the second accused again says that he took the clothes and placed them in his house and when the police came and asked him he gave the clothes to them. The approver does not make any reference to the clothes in his evidence given at the Sessions trial. If the first accused had a hand in the murder, he would have thrown the clothes also with the corpse. The prosecution credit him with a great deal of cleverness and hypocrisy, with the power of imposing his will on his guilty associates and influencing their views. In the face of all these circumstances I am not prepared to accept the theory that it was in consequence of Lakkamma's information that the clothes were found. I need hardly add that the consideration of this case has cost me much serious and anxious thought. The evidence is inherently improbable and inconsistent with the probabilities of the case. The approver's evidence is not sufficiently corroborated. The motive for the murder is not sufficiently strong and impelling. For the materials before me I feel I ought not to hold the first accused guilty. I accordingly allow his appeal, acquit him of the offence of murder with which he is charged, and direct him to be set at liberty.

With reference to the second accused I have no reason to believe that he is not guilty. He admits in his statement before the committing magistrate that he was present at the time of murder and that he held the legs of the dead body. The allegation that the patel had criminal intimacy with Narasamma rests on mere suspicions unsupported by any evidence.

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The theory that the patel and Veerabhadrappa are the murderers is not meeting as it does on the mere confession of the second accused is unacceptable. But as the second accused admits throughout that he was present at the murder and as the clothes of the deceased proved to have been worn by him before his death came from the custody of the second accused I cannot say that the finding of the lower court in regard to his guilt is wrong. I accordingly confirm the conviction and sentence so far as the second accused Venkata is concerned and dismiss his appeal.

Sd/- V.S.Srinivasa Iyer,

J U D G E.

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The Offg: Chief Justice :-

Even putting aside entirely the retracted confessions of the first and second accused, we have strong direct evidence in the statements of the approver Polle Sidda (prosecution second witness) and the women Lakkamma and Narasamma (prosecution 3rd and 4th witnesses), pointing indubitably to the said accused persons along with the approver as the persons who murdered Narasa Hanuma. I find it extremely difficult to believe that these three witnesses have been tutored to give false evidence in order to cause the first and second accused to be convicted of a capital offence - the only alternative to such a theory being to accept their evidence as in the main true and reliable, subject to the usual rules and safeguards as to the appreciation of evidence.

The deceased was an elderly man without wife or children. His brother's son who he had with him for some time went away somewhere; and he therefore kept with him since 1½ or 2 years the first accused and his wife Narasi (prosecution 4th witness) who was the daughter of the brother's son aforesaid, and also Lakkamma the first accused's sister (prosecution 3rd witness). Narasa Hanuma had money dealings and was possessed of cash, jewels and documents, which he kept buried in the cattle-shed and other parts of his house; and there is nothing improbable in the assertion of the first accused in his confessional statement of the 13th March 1919 (Exhibit P_{10}) that he got angry because the old man denied his (first accused's) right to question his disposal of his effects. There is no evidence that the first accused had any independent income of his own; the very fact that he was glad to remove himself with his wife and his widowed sister and her child wholesale to the roof of Narasa Hanuma would suggest that he could not have much income or property to live upon. At any rate no other person than the first accused stood to gain by the murder of the

and as a matter of fact there is evidence that he hid the cash, jewels etc., very shortly after the murder and concealed them in other places, where they were pointed out by him to the police. See evidence of prosecution 4th witness as to the removal by first accused and that of prosecution 4th witness as to finding 2 holes newly dug up and filled with fresh earth.

It will be worth while to consider, even if somewhat cursorily, the circumstances attendent on the discovery of the ~~xxxxx~~ dead body. Narasa Hanuma is known to have been alive on Wednesday afternoon the 19th March 1919; the prosecution 11th witness swears ~~xxxx~~ he had seen him that day at about sunset, while the first accused's case unsupported by evidence and in contradiction with his confession is that the old man who went to Hejjaji Shandy that afternoon did not return. His mangled and mutilated corpse was pointed out by the first accused to the patel (or rather the patel's son Subbaraya Gowda, prosecution 8th witness) on the following Friday afternoon the 21st March; it was then lying in a dried up hollow or ditch, 2½ feet deep by 10 or 15 feet wide, and situated some 98 feet away from the pathway leading to Rampura from Holerahalli, the deceased's village. Three inferences may safely be drawn from the various indications present. First, death could not possibly have been due to mere accident, but was the result in all probability of brutal violence. Thus according to the inquest report, the trachea had been completely cut for a length of about 4 inches along with the blood vessels; the skin over the larger part of the face had been cut and removed; the right lobe of the ear had been cut away; the sockets of both eyes were found broken at the outer sides; the nasal bones were found broken to pieces; the ramus of the left lower jaw was broken; the left clavicle was broken at its middle on the right side; and a number of ribs were broken on both sides.

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The medical opinion is decisive that death was due to the injuries noted; and the Sub Assistant Surgeon adheres to the view that they must have been inflicted by sharp and blunt instruments; a view which seems supported by the nature of the injuries. The second inference, based on the entire absence of blood marks anywhere in the hollow, apart from some foul liquid oozing out from below the mouth of the corpse, is to the effect - herein tending to probabilise the direct evidence materially, - that the murder must have been committed elsewhere, the dead body having been thereafter removed and thrown into the hollow. Thirdly, mere casual robbery by a wayside thief could not have furnished the occasion for the murder, seeing that most of the jewels worn by Narasa Hanuma while alive were found intact on his dead body, whereas the clothes and the gatti muras in one ear were missing.

On the other hand, there is not the slightest evidence that the old man had any enemies who were actively interested in taking away his life. No doubt the second accused Venkata has come forward before the committing magistrate with a story that Subbay Gowda or Subbaraya Gowda the patel's son (prosecution 8th witness) was keeping the first accused's wife Narasamma, and had a quarrel with Narasa Hanuma on that account, and it is suggested that Subbaraya Gowda may have done away with the latter in consequence. Subbaraya Gowda, Narasi, and Lakki distinctly deny the alleged intimacy; nor has the first accused alluded to it at any time prior to his memorandum of appeal to this court. The father of the second accused, who was examined as prosecution 9th witness, has stated in cross-examination that the patel (meaning thereby Subbaraya Gowda) was on visiting terms with Narasa Hanuma and was not quarrelling with the latter, and that his visits were to the old man and not to the woman Narasamma. If Subbaraya Gowda was on inimical terms with the deceased and the first accused, and there was the least ground at the

for suspecting his complicity in the murder, it was scarcely likely that the first accused would have gone straight to a person to make a report as to the finding of the corpse, or that that person would have contented himself with passing on the information to the police just as he had received it. I have very little doubt that the second accused's story in question is false in its essentials, intended by the second accused to save the first accused, and to bring into trouble Subbaraya Gowda to whom or to whose father he owes money, and whom he probably suspects to have had xx a hand in bringing him into trouble. The story, again, is entirely opposed to the confessional statement given by the second accused before the second class magistrate on the 20th March 1919; and it is curious as well as significant that he seeks to implicate not only Subbaraya Gowda but also Veerabhadrayya, the local sivachar merchant and police informant who was helping the police in the course of the investigation. Of course there is not the slightest motive suggested or proved why Veerabhadrayya should join the conspiracy against the deceased old man.

Now the second accused pretends that, though he mentioned Subbaraya Gowda and Veerabhadrayya, the Police Inspector and Jemadar advised him not to speak against them as they were family men but to implicate the approver Nolle Sidda and the first accused Ranga. He seeks at the same time to make out that, though he was present at the murder, he took no part whatever in the crime, beyond holding the legs of the deceased while he was struggling, - a circumstance which in itself sufficient to discredit his story, since it is very likely that his services would in that case have been sought by those who wanted to get rid of Narasa Naik. His further assertion that the old man's throat was not cut but that he was merely killed by a big round stone thrown on his

head by Subbaraya Gowda, is quite consistent to the indications of the post mortem examination, and is itself sufficient to stamp his story as a deliberate and barefaced invention.

On the whole I am clearly of opinion that the wicked and malicious falsehoods put forth by the accused accused ought not to make the slightest impression upon our minds as regards the innocence of the first accused, his employer, whom he is evidently endeavouring to save from trouble, - a reason which accounts sufficiently also for his attempt to explain away the approver's evidence by alleging that the latter had nothing to do with the murder.

As soon as the first accused mentioned to the patel's son on the 21st March that his "grand-father" [illegible]'s corpse was lying in the hollow, that individual sent a report of the fact (Exhibit P_4) to the Police Jamedar of [illegible]-mala, and the latter sent on that report to the Police Inspector of Dodballapur with a report of his own (Exhibit P5) in which was mentioned certain information which he had received as he says "from the people here" to the effect that the first accused Ranga and others had murdered the deceased on the night of the 19th March out of anger that he would alienate his properties and that the alleged fall into wayside ditch was false. The Jamedar's report was despatched at 12 O' clock at night and reached the Inspector the following morning at 5-[illegible] A.M. I find it rather difficult to believe the suggestion that the report was not sent as asserted, but was subsequently introduced into the records by the police: no useful object could, so far as I can see, be served by such an introduction, and the Jemadar's report is in fact part of the material upon which the prosecution relies for a conviction. I see nothing, after all, very strange or surprising in the Jamedar receiving information of the kind recorded in Exhibit P5; and intelligent and wide-awake [illegible]

officer with his ~~ex~~ ears open is often in a position to receive floating information likely to be useful in the course of the investigation; and this particular Jamedar struck me while in the box as rather a shrewed and resourceful person and much better fitted to handle a difficult case than the Taluk Inspector. He is evidently unwilling to reveal the source of his information, and under the law we cannot of course compel him to divulge the name of his informant. Beyond the fact that it cannot be the patel or the shanbhog, whom indeed he accuses in Exhibit P5 of making a false report "after consideration", that is to say, deliberately, we are after all not particularly concerned with finding out who the Jamedar's informant may have been.

The really important thing in the case is the fact that it was the first accused's sister Lakkamma (prosecution 3rd witness) who, on the evening of the 23rd March, furnished the police with information which directly led to the arrest of both the accused persons and Honne Sidda the same night, and to the tracing the next day to the second accused's house of clothes belonging to the deceased and worn by him last, namely a turban (article 10), a dupati (article 4) and a panche (article 3) - the two last stained with mammalian blood and their recovery from places of concealment. The discovery of the clothes is a particularly important circumstance, as its truth is admitted by the second accused, who has however not explained how information about the same reached the police otherwise than through Lakkamma. If on the other hand as is alleged and as I believe to be the case, the informant was Lakkamma, then it shews beyond a doubt that she must have been in a position to give definite and detailed information regarding the occurrence, information based on her direct knowledge, - a circumstance which adds materially to the weight to be attached to her testimony.

It is fairly clear that Lakkamma and Narasamma are both somewhat unwilling witnesses; at any rate their statements do not read as if they wanted to favour the prosecution at the expense of the accused persons, and particularly of the first accused; on the contrary, several of their answers and some of the apparent inconsistencies therein point to a decided leaning on the part of the witnesses towards the first accused who is the uterine brother of the one witness and the husband of the other. The statements of these witnesses in the court of Session are in fact less favourable in some respects to the prosecution than those made before the committing magistrate, and it is only for instance after Narasi was confronted with her earlier statement before that functionary that she admitted the truth of the particulars mentioned therein. It does not however follow, because they are somewhat unwilling witnesses, that they are untruthful witnesses who simply repeat what they have been taught by the police to say. If this were so, we should have ~~xxxxxxx~~ expected them at least in the Court of Session when they had no longer anything to fear from the police, and when the accused persons had already resiled from their own confessions, to repudiate their earlier statements, at least so much of the same as tended to incriminate the first accused. Instead of this we find that they adhere ~~xxxx~~ substantially to the version already given by them.. This I think is because it is more or less the true version, or the version which comes nearest to what they can be expected to speak to; for it is usually easier for a witness - especially a dull witness like Lakkamma - to ~~xxx~~ stick to the truth especially after it has been once uttered than to invent an unconsistent truth and thereby land himself in difficulties of all kinds. The few inconsistencies that are noticeable in the statements of the women witnesses are not, after all, very material ones, and may be accounted for by the natural impulse on their part to affect ignorance of the [illegible]

accused's design to kill an inoffensive old man and appropriate his money, and to pretend to have been shocked at the sight of the cold-blooded murder. I certainly do not believe, and there really is no warrant for suggesting, that the women were in league with the first accused to take away the life of the old man who was harbouring them; on the contrary, their disapproval of the atrocious act of the first accused may be a reason why they have come forward the more readily with the truth. At the same time, however, it is not very easy to believe that either Lakkamma or Narasamma, the only inmates of the house at the time, could have been kept altogether ignorant of the intentions of the murderers; though they may not have looked with favour upon those intentions. They came along with the first accused to live with Narasa Hánuma a little over a year previously, and I do not know why we should assume that they became so much attached to the latter that they were willing to risk their own lives and at the same time bring their new relative the first accused into serious trouble by crying out when they saw the old man being murdered or by running to his help. Their evidence, moreover, is to the effect that Narasa Hanuma was already dead when they saw him, so that no intervention on their part would have been of any avail. There is some difference between the two witnesses as to whether they did cry ~~xxx~~ out or not; I am inclined to believe Narasi's statement that they did not cry out in preference to Lakki's statement to the contrary, especially as the women, if they were really shocked at the sight and were bent on calling out for help, could not have been prevented from doing so merely by being pushed into the radu-ara by the first accused. It is however unnecessary to speculate further on the state of mind of the witnesses.

Lakkamma swears that she was awakened by a rustling noise, that in the padasala she saw Narasa Hanuma lying on a ladder with his throat cut, and that both the accused [illegible]

and Kolle Sidda were seated there. At first she deposed that she saw the second accused cut the throat of the deceased; but in cross examination she said she did not actually see this but only inferred it from the fact of the corpse being placed on the ladder. This qualification that she introduces makes no particular difference to the conclusions as regards the probable course of events that must be drawn from her evidence if that evidence is true in the main. Narasi, on the other hand, who was awakened by Lakki at midnight, says that she saw the second accused and the approver in the padsale , that Narasa Hanuma was dead, and his dead body placed on a ladder, and that all the persons including her husband the first accused carried away the dead body. Confronted with her statement before the committing magistrate, she admits that the second accused and Kolle Sidda murdered Narasa Hanuma, that the second accused cut his throat with a knife, and that the first accused was holding the legs. She admits having removed some cowdung manure in the dark, but does not know if it was blood-stained, and professed to be unable when asked by the police to point out the manure. This does not look as if she has been tutored by the police to give false evidence. If she and the police were conspiring to falsely implicate the first accused, it would not at all have been difficult to so arrange matters that the witness could point to some cowdung manure stained with marmalian but not necessarily human blood, as that which she removed at night. Instead of this, the police inspector (prosecution 8th witness) states that the contents of the manure pit were examined, but that no blood-stained cowdung could be found in it. It is just possible that the cowdung may have been thrown elsewhere and that the woman Narasi is not willing to point out the spot; and here it is not unimportant to remember that, according to the evidence of the Police Inspector, Narasi was not disposed to give any information

when questioned on the 22nd March, and that she only broke out with information concerning the murder on the 24th March some days after Lakkamma had furnished details to the police. The Sessions Judge has, I find, made against Narasi's deposition the note that "the witness laughs occasionally and does not appear in the least concerned about the first accused being in trouble". I would not attach the slightest importance to this note as affecting the credibility of the witness, seeing that women often give way to hysterical laughter when placed in difficult situations and that excessive shyness or self-consciousness or uneasiness may give rise in individuals of both sexes, to silly fits of laughter or smiling in the attempt to control their feelings.

My conviction as to the general reliability of the testimony given by the two women witnesses is materially strengthened by the consideration of the evidence given by the approver. The latter is related to Narasi and by marriage as the first accused also is; and he, the first accused and the second accused went to Doddballapur in charge of the corpse on the 22nd March. He was implicated by Lakkamma along with the two accused on them the 23rd evening, and was therefore arrested simultaneously with them. I have already referred to the material substantiation that Lakkamma's information received in the fact of the recovery of deceased's clothes from the house of the second accused. But another element of corroboration consists in the fact that on the 25th March all the three persons whom she implicated in respect of the crime before the Special Second Class Magistrate of Bangalore. It is true that the first accused has since withdrawn his confession entirely, and that the second accused has given to his confession a twist manifestly intended to benefit the first accused; but Mallé Gowda has throughout adhered to the version that the first came on the 24th March (Exhibit P-1), and which there is no valid

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sum as large and substantial as Rs.100/-, must have been made for the first time when the 1st accused had everything ready for carrying out his murderous design, and the approver's behaviour when the offer was made (judging from his own account of it) does not suggest that the 1st accused could have had any doubts about being able to secure his help at the proper time. It appears from Mollesiwda's evidence as an approver before the Committing Magistrate that 15 or 20 days prior to the date of the murder, the 1st accused had told him that the 2nd accused was willing to kill Piyaratana if paid Rs.100/-, and promised to pay him Rs.100/- if he would also help in the matter; he qualifies this latter statement by saying that the promise was made on the date of the murder, and even after the murder was committed, which last of course could hardly have been the case. In his evidence before the court of Session, Mollesiwda admits that about 10 days prior to the murder he was aware of the intended murder; he says he heard the two accused persons conversing here, and found that the 1st accused had agreed to the second accused's proposal to kill the old man because he wanted Rs.100/- for the expenses of his marriage. The approver pretends that he made a sort of remonstrance when the ~~xxxxxxxxxxxxxxxxxxxx~~ idea of murder was broached; but the remonstrance was evidently a very feeble one, for as soon as he was asked to hold the legs of the deceased, he did so, the 1st accused thereupon catching hold of the hands, while the 2nd accused seized the neck and cut the throat with the knife article No.1. He doubt he adds in the Sessions Court that, when the 1st accused offered to pay him Rs.100/-, he said he did not want the money and declined to catch hold of the legs, but that when both the accused persons caught hold of him he was terrified and consented to do whatever they asked him to do, and so on and so forth; but this is the sort of prevarication which, as I have already said, witnesses sometimes indulge in to save their face and which cannot mislead a person of average shrewdness in the task of separating truth for embellishment. I do not think the witness' statement that he did not demand the 1st accused for the murder

rupees promised introduces any inconsistency whatever; for there was hardly time for the promise to be fulfilled before the police came upon the scene and the conspirators themselves were taken into custody.

The evidence in the case, read as a whole, does not produce any impression of improbability on my mind. The 1st accused, who had transferred himself to Narasahanuma's roof with his entire family, must have done so with the object of eventually stepping into the properties of the latter; but he soon found that the old man was not prepared to place himself unreservedly in his hands. (Cf. on this point his confession Exhibit P.10 and the statement of Venkatappa Prosecution 11th witness before the Committing Magistrate not examined in the Sessions Court), and he accordingly formed the design of murdering Narasahanuma and disposing of his dead body, and appropriating his effects. Whether he could not have accomplished his object otherwise than by murdering the old man, and whether it would not have been less risky to commit the murder in some place other than the man's residence, are points upon which it is hardly profitable to speculate with any advantage unless we can place ourselves in the position of the 1st accused—the person chiefly concerned—and can have access to all the feelings and considerations that must have entered into his calculations There are obviously innumerable conditions in which murder is the only ready mode of appropriating the victim's effects; and often too, a murder committed at the house of the victim at dead of night in the presence of no one but the confederates of the murderer and persons directly interested in him is a safer and more certain method of compassing the object in view than prowling about with hired assassins on the off chance meeting the victim alone in a solitary spot. I have already expressed the view that the women who were the only other inmates of the house were not in a position to actively interpose for the protection of Narasahanuma, even if they were

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disposed to do so in opposition ~~xfxxk~~ to the first accused; and I am inclined to think that the ~~xxxx~~ actual conditions at the time of the murder were nearly ideal conditions for the purpose in view. The evidence also shows that the murderers had taken all possible precautions to remove every trace of their crime. The dupati, cumbly and panche of the deceased were removed before second accused cut his throat, so as to try to obviate blood stains; and the same accused (who it will be borne in mind, is the village talari and a madiga accustomed to cut up and handle animal carcasses) had previously put cowdung manure all round the deceased, so that the blood which flowed from the neck, became soaked in the manure; and this blood-soaked cowdung manure was thereafter collected by Narasi and removed to some place which she could not or would not subsequently point out to the police. The body, itself was removed at dead of night on a ladder; and the village being a very small one, there was hardly any risk of the act being detected. The body was thrown into a hollow situated several yards away from the public pathway on a private holding, and so not readily discoverable. The removal of the clothes and the disfiguration of the facial appearance of the corpse were no doubt intended to obliterate traces of identity. So far, everything favoured the murderers. But, unfortunately for them, the disappearance of the old man could not be kept concealed indefinitely; in fact, the first accused did the right thing from his point of view in waiting for a couple of days and then pretending to have discovered the body in the hollow and inducing the patel to send a colourless report to the police to the effect that his grandfather Narasahanna "had fallen into a hollow by the side of the path and died;" for, if he had failed to make pretence of a search, nothing could have tended to draw down suspicion more certainly upon himself. The evidence of prosecution 10th witness, the elder brother of the deceased, is significant in that it shows that the first accused wanted the witness to speak to the facts and hush up the matter; but the witness was not confident of his powers of persuasion, and wisely for the first accused, the

Cr. ap 32/19-20

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Criminal appeal no. 32 of 1919-20
Cr. Ref'd case no. 2 of 1919-20

Monday, the 22nd day of March 1920.

B E F O R E

Sir Leslie C Miller Kt., C.B.E., Chief Judge.

This appeal coming on for hearing on Monday, the 15th day of March 1920, the Court delivered the following :-

O P I N I O N

I have heard Mr. Varadarajiengar for the appellant but have come to the conclusion that his client has been rightly convicted.

If the murder was committed at the house of the deceased there is every probability that the appellant was one of the murderers. I see nothing impossible of belief in the view that if a murder was contemplated the easiest way of accomplishing it was to kill the deceased at his house and during the night, and I am unable to see anything inherently ~~to~~ improbable in the evidence in so far as it alleges the house of the deceased as the place of the murder. It seems to me that the two women were probably not to be feared. If they were not actually accomplices (and there is no evidence that they were) they may well have known that the murder was in contemplation, and it is not to my mind right to assume that they would have made any strenuous resistance, or have been greatly

shocked

shocked at it or would have voluntarily betrayed the murderers. Then the evidence establishes the fact that the deceased Narasahanuma returned home from the shandy on the 19th of March, and there is nothing to suggest any reason for his leaving the house again that night. Mr. Varadarajiengar suggests that he may have been carried off alive to the place where the body was found, but that is mere speculation. The second accused in his appeal petition says that Veerabhadrayya brought the deceased to the place, apparently about 7 O' clock in the evening though that is not absolutely clear from the petition. But at any rate it is clear from this petition and the statement made by second accused to the Magistrate that his account of the matter is that the murder was soon after dark: If so it is not likely that none of the inmates of the house would have known of Narasahanuma's departure from it - I do not see any reason to accept the second accused's statement at all. It seems to me to be pretty clear that it is false. But without it there is nothing to suggest that deceased left his house, after dark, and it is not to be assumed that he did.

The only real difficulty in the way of accepting the view that the murder was at the house, is the absence of blood-stains there. This is explained by the prosecution witnesses to be due to precautions taken to put a large quantity of manure round the deceased before the commission of the murder. That is not of course impossible and not to my mind unlikely, but at all events there was time before the police inspected the house to clean up any stains that may have been on the ground and

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though Lakkamma yielded to police pressure when the Inspector questioned her there is no reason to suppose that she and Narasamma were not before that time as anxious as any one else to conceal the crime. The police were told by Narasamma that the manure had been thrown away but could find no blood stained manure in the place indicated to them. Whether between the night of the 19th of March and the 25th when the police looked for the manure, the blood stains would have remained in a form in which the police were likely to detect them is a matter on which there is no evidence & nothing was sent to the Chemical Examiner. Narasamma may be telling the truth when she says she told the police officer that she did not ~~know~~ know where she threw away the blood-stained manure in the dark but it is hardly likely that she did not in fact know approximately where it would be found. The only fact we have clear is that it was not found. But on that fact I cannot base the conclusion that the story is false. The point has not been elucidated by a careful examination of the witnesses in the Sessions Court and it is possible that Narasamma misled the police having in her mind some idea that it would be safe for her if nothing was found. The police may have been careless, or there may be many circumstances on which it is useless to speculate which may have led to the failure. But as K.S. Chandrasekhara Aiyar J points out if it be true that the whole story of the murder at the house is a pure concoction of the police we should expect to find that the matter of blood-stains had been provided for.

If we are to accept the second accused's account of

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the matter to the Committing Magistrate the matter of blood-stains is perhaps more obscure : according to that account Narasahanuma was murdered in the path near the ditch where his body was found. It is true that the second accused's story does not account for the fact, that the deceased's throat was cut; he says nothing about that, and if there was no cutting of the throat there might have been but little blood shed : but the cutting of the throat is proved clearly enough and the body was found some days before the house of the first accused was visited by the police : yet there was no trace of blood either on the path or apparently in the ditch. It is not therefore as if there were any positive indications that the murder was not in the house apart from the statement of second accused and that statement I entirely disbelieve.

There is no evidence to support the allegation that the patel was an enemy of the deceased. No doubt the first accused at a late stage of the case supports the second accused on this point, but the suggestion that enemity was due to the connection between the 1st accused's wife Narasamma and the patel is denied by the patel and by Narasamma and is entirely unproved : if there were such connection and such enmity that does not suggest the probability of the murder of Narasahanuma, but rather of first accused himself : and to account for Narasahanuma's murder we have only the statement that in connection with the alleged quarrel he beat the patel. That this should have led to his murder rather than to some less drastic form of reprisal is in itself improbable and, that Veerabhadrayya should have been able, if the

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state of feeling between Narasahanuma and the patel was so high, to induce Narasahanuma to go with him after dark without informing any of his family of his departure from the house; is also improbable. Considering also the fact already noted that the story does not account for the wound on the throat of the corpse I agree with K. S. Chandrasekhara Aiyar J that we may safely disregard this story altogether. It is repeated in the appeal petition but the appeal petition is clearly a last attempt to exonerate not only 1st accused and the approver but the second accused himself, and I can attach no weight to it. Indeed in the former statement he does his best to exculpate himself attributing such part as he took in the murder to coercion by the patel.

Of the two stories it seems to me that that of the approver is far more likely to be substantially true than that of the second accused.

There is not in my opinion any reason to believe that the charge against the first accused and the approver is the result of a conspiracy between the police and the patel. There is no evidence that the police were likely to be in the hands of the patel for any particular reason and nothing so far as I can see in the course of the investigation as disclosed, to indicate any conspiracy. I do not see why any suspicion should fall on the patel merely because a corpse was found in a ditch by the roadside on his land, and discarding for reason already given the statements that the patel was the murderer and had any cause of ill feeling against Narasahanuma, I see

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no reason why he should have exerted himself to concoct an entirely false charge against the accused.

Exhibit P_5 it is argued is an indication of concoction by the police with or without the aid of the patel, but it seems to me that is very easy to make too much of that document. If it be a document interpolated in the record of the investigation as is suggested by Mr. Varadarajiengar it seems to me to serve no purpose whatever; unless it be to indicate that the jemadar did not know his business. If it was sent up along with the first information as the jemadar says it was it seems to me to represent nothing but a suggestion or a suspicion on the part of some person in the village, a rumour as the jemadar says, and it can neither help the prosecution nor the defence. It may be that having received some suggestion that suspicion attached to the first accused the police were very ready to pursue that idea rather than any other, but it does not follow that they were on the wrong track: it indicates that we should be careful in scrutinizing the evidence but not (to me at least) that we should reject it all as pure invention. Even if I assume that the patel gave the information embodied in P_5, and it seems not unlikely that he was the real informant, it is a long step from that to the inference that he was actuated by malice and that he had no sort of ground for the suspicion which he expressed.

It does not seem to me that there is anything improbable in the story of the approver that the murder

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was committed at the house and the corpse was placed on a ladder and carried to the ditch. The approver does not admit that an attempt was made to prevent the identification of the corpse, and that may be true. The heavy stone with which probably the bones of the face were broken may have been used to suggest rather that the murder was committed at the place where the body lay than to disguise the identity of the deceased and the skin of the face may perhaps have been removed in the course of using the stone. That is mere speculation and does not materially affect the case but I cannot but agree with C.S. Doraswami Iyer J that the medical officer ought to have been examined in the Court of Sessions. However the fact that the deceased's throat was cut being proved I am prepared to accept the evidence of the approver that the murder was committed at the house. That evidence is of course corroborated by the women Lakkamma and Narasamma, and though their evidence is open to a good deal of criticism as the statements of peasant women in a court of justice very generally are, I cannot reject it all as false. Even if they saw no more than the corpse on the ladder they corroborate the approver as to the fact of the commission of the murder at the house, and if the murder was committed at the house, then as I have already indicated the approver's allegation that the first accused was one of the murderers is almost certainly true. He was an inmate of the house and he it was who secured the property of the deceased : it is hardly possible that the second accused who was a mere hired assassin and the approver who is not shown to have had any independent motive for the crime, would have committed the murder

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without the knowledge or help of the first accused. The women say that the first accused pushed them into the house, and that is not unlikely : though they are not likely to have raised any alarm when they saw who the murderers were, still their presence was very probably thought to be unnecessary and undesirable. And even if that be all the truth ~~than~~ there is in ~~this~~ their story, if it was too dark for them to see anything clearly, still the fact that the first accused pushed them back into the house affords corroboration of the approver's story as against him. If he was there at all he must have been one of the murderers.

But though the question of sufficient light has not been very fully elucidated, and ~~this~~ the evidence is conflicting I think the approver's allegation that there was a light burning is probably true; it would have been more difficult to carry out the murder and the removal of the corpse with no light, and there is nothing to suggest that the presence of a light would be likely to seem dangerous from the murderers' point of view.

I do not go so far as the Sessions Judge in accepting the evidence of the women altogether : he believes that they saw the murder committed from the beginning : I am not sure of that but I think they did come out and see enough to enable them to know what was going on.

It is not necessary to believe every word that the approver says, especially as to his own reasons for agreeing to join in the murder, but the story as a whole

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is not improbable, and there is an entire lack of anything to indicate why he should have been pitched on by the police as one of the murderers. It may or may not be true that he himself saw the deceased in the evening of the 19th after his return from the fair; on that point he is contradicted by Narasamma but he may be right and she may not have noticed him, or he may be wrong and merely be trying to strengthen the case. I do not in either view, see any reason to doubt that Narasahanuma did return home that evening ; there is other evidence as to that and if he did not 1st accused would have gone to look for him.

Mr. Varadarajiengar argued that there is no proved motive for the murder and that it is very unlikely that first accused would have murdered his protector. But while I must give weight to this argument, as the Sessions Judge has done, I confess it does not greatly impress me. I do not know why the Public Prosecutor did not in the Sessions Court examine the witness Venkatappa who was examined by the Committing Magistrate, and it is perfectly true that there is little evidence of any motive for a murder. But people before now have murdered their protectors when it has seemed to them that they can get on better without their protection. Here we have the fact that Narasahanuma was getting on in years and that the capital on which the first accused and the two women were living belonged to him alone. Whether they or the first accused alone, thought it would be well to secure it before the owner could spend it or give it to others, or whether they had any reason to fear that he would not leave it on his death to the 1st accused, the evidence does not prove- but there is on the

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other hand no evidence of any strong bond of affection between them, the women and first accused were well treated; that is all - and I do not find it necessary to have strong evidence of a motive before I can accept the evidence of the murder.

I have said nothing about the confessions made to the second class Magistrate : I believe they were substantially true but I find it difficult to accept them as voluntary. The circumstances suggest rather a competition to be taken as approver, and a competition of that kind is, to my mind, evidence of inducement though not necessarily of coercion. The first accused has retracted his confession and like the Sessions Judge I should not be prepared to act on it.

The case as it strikes me may be summarised in a few words : the police on the finding of the body entertained suspicion against the first accused (P5) and the Inspector got hold of Lakkamma and forced or induced her to tell him what she knew of the affair. The rest was easy.

We have learned to be so sceptical of the honesty of police investigations in grave cases, that a case so presented at once gives rise to suspicion - but in the present case after giving the record and Mr. Varadarajiengar's argument my best attention and after carefully studying the opinion of my learned colleagues, I am convinced that the Sessions Judge was right in convicting the 1st accused and I confirm that conviction and the sentence of death imposed on him.

(83) Leslie C. Miller

CHIEF JUDGE.

"Copy"

Mr. Murugesampillai
By Registrar

G. R S. VI—S-III/33]

73 3 Dec/13

DRAFT.

SUBJECT .....

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Section. Ch 246-C
File No. ~~237-13~~
Serial No. 2

No. G.1156 ... and Records

Diary No. of letter replied to. 18957 & 19211

To

The Registrar of the Chief Court of Mysore.

GENERAL AND REVENUE SECRETARIAT,

( )

, the.....191 .

Date of issue..... 16/7

Signed by..... Mr Rice

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoners ..... Venkata ... & ... Ranga accused in Bangalore Sessions Case No. 15 of 1913-14, undergoing sentence of ..... death .....

..... in the ..... Central ..... Jail, Bangalore, copy of order passed by H. H. the Maharaja of Mysore, on the prisoners' memorials praying for mercy.

2. The entire records received with your letter No. 997/Cr. R. dated 11/14th April 1913 are herewith returned.

I have, etc.,

D. Cliff

for Chief Secretary.

26/7/13 R
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In the matter of Memorials of Ranga and Venkata praying for mercy against the sentence of death passed on them, in Bangalore Sessions Case no. 15 of 1918-1919.

His Highness the Maharaja

directs

that the memorials be rejected.

16.7.20

Dewan